

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

EMMANUEL OTIOGIAKHI, an individual,	:	
Plaintiff/Counter Defendant,	:	Hon. Dennis M. Cavanaugh
vs.	:	ORDER
AAMCO TRANSMISSIONS, INC.,	:	Civil Action No. 11-04620 (DMC)(JAD)
Defendant/Counterclaimant.	:	

DENNIS M. CAVANAUGH, U.S.D.J.:

This matter comes before the Court upon a Report and Recommendation filed by Magistrate Judge Joseph A. Dickson on August 23, 2012, recommending sanctions against Plaintiff Emmanuel Otiogiakhi (“Otiogiakhi” or “Plaintiff”) for his willful failure to obey this Court’s November 17, 2011 Order (“Order”) (ECF No. 21), granting Defendant AAMCO Transmissions, Inc.’s (“ATI” or “Defendant”) request for preliminary injunction. On August 23, 2012, Magistrate Judge Dickson filed a Report and Recommendation advising that this Court: (1) find Plaintiff in civil contempt for failure to comply with the Order and grant ATI’s motion for contempt sanctions, (2) order Plaintiff to pay ATI \$750.00 per day that Plaintiff is in violation of the Court’s Order, (3) award ATI reasonable attorney’s fees and costs incurred due to Plaintiff’s noncompliance, (4) order ATI to submit a Certification of Services to the Court listing its fees and costs within fourteen (14) days. (Report and Rec., ECF No. 34). For the reasons discussed herein, this Court adopts the Report and Recommendation of Magistrate Judge Dickson.

The parties were given notice that, pursuant to L.CIV. R. 72.1, they had fourteen (14) days from receipt of the Report and Recommendation to file and serve any objections. Objections were due by September 6, 2012. No objections were filed.

In the instant matter, ATI asserts Plaintiff had knowledge of this Court's Order issued on November 17, 2011 and, despite the clear and unambiguous language of the Order, Plaintiff violated multiple provisions by continuing to operate its facility in a manner contradictory to the Order's terms. As such, ATI contends that the Court should sanction Plaintiff on a per day basis for each day Plaintiff's violation continues, as well as award reasonable fees and costs incurred as a result of Plaintiff's noncompliance. Magistrate Judge Dickson recommends to this Court that it is clear that Plaintiff's counsel received notice of the Order and apparent that Plaintiff was aware of the Order. This Court concurs with Magistrate Judge Dickson's conclusion. Magistrate Judge Dickson's Report and Recommendation demonstrates to this Court that Defendant is entitled to remedial relief and that sanctions should be imposed to ensure Plaintiff's compliance with this Court's Order.

The Court, having reviewed the Report and Recommendation and, considering that no objections were raised by Plaintiff, according to its power to accept the findings made by Magistrate Judge Dickson under 28 U.S.C. § 636(b)(1)(C), and good cause appearing, adopts Judge Dickson's Report and Recommendation. See also, N.J. Brain & Spine Cntr. v. Conn. Gen. Life Ins., No. 10-cv-4260, 2011 WL 4737063, at *2 (Oct. 6, 2011). Accordingly, this Court will adopt the Report and Recommendation as the Opinion of the Court.

IT IS on this _____ day of September 2012,

ORDERED that the Report and Recommendation of Magistrate Judge Joseph Dickson (ECF No. 34) is hereby adopted as the Opinion of the Court;



DENNIS M. CAVANAUGH, U.S.D.J.

Dated: September 10, 2012

cc: All Counsel of Record
Hon. Joseph A. Dickson, U.S.M.J.
File